

Paul Glasscock filed complaints against the Grant County Sheriff (the Sheriff) and the Town Manager for the Town of Swayzee (the Town Manager) for false imprisonment and false arrest. The trial court granted summary judgment in favor of the Sheriff and the Town Manager. On appeal, we affirmed the trial court's entry of summary judgment because Glasscock, by failing to include the videotape of the traffic stop, provided us with an insufficient basis to review his claim. *Glasscock v. Grant County Sheriff*, Cause No. 27A02-0506-CV-523 (Ind. Ct. App., May 26, 2006). Glasscock petitions for rehearing.

Glasscock contends the videotape “*was* a part of the Clerk’s Record and available for appeal” *Appellant’s Petition for Rehearing* at 3 (emphasis in original). We do not question Glasscock’s assertion that the videotape was part of the clerk’s record; indeed, the trial court expressly relied on it in ruling on the Sheriff’s motion for summary judgment. This did not, however, relieve Glasscock of the burden to ensure that we were presented with all evidence designated to the trial court when it made its decision. *Lenhardt Tool Die Co., Inc. v. Lumpe*, 703 N.E.2d 1079 (Ind. Ct. App. 1998), *trans. denied*. Glasscock himself “does [not] contest [our] conclusion that the tape was an integral part of the record and should have been made available on appeal.” *Appellant’s Petition for Rehearing* at 3. Rather, Glasscock erroneously concludes his burden of presenting us with a complete record was satisfied by the videotape’s inclusion in the trial court clerk’s record. This is incorrect.

Ind. Appellate Rule 50(A)(2)(h) requires an appellant to include in its Appellant’s Appendix “any record material relied on in the brief unless the material is already

included in the Transcript;” Ind. Appellate Rule 29 states “[n]ondocumentary and oversized exhibits shall not be sent to the Court[.]” Although it is possible to read these provisions as contradictory, Appellate Rule 29(B) merely provides that large or cumbersome physical evidence such as weapons, drugs, or clothes shall not be sent to this court. It is unreasonable to interpret Appellate Rule 29(B) to direct appellants to exclude from their appendices evidence that is not oversized and that was expressly relied upon by a trial court in reaching a judgment. Designated evidence, therefore, such as videotapes and audiotapes that are essential to a trial court’s entry of summary judgment should be, and routinely are, provided to this court on appeal. *See Hughes v. King*, 808 N.E.2d 146 (Ind. Ct. App. 2004) (we can review a substantive issue only when appellant provides a complete copy of designated evidence upon which a trial court entered summary judgment). In the absence of such essential evidence, we have no basis to review a trial court’s judgment, much less reverse the same. *Id.*

Finally, Glasscock erroneously concludes we “procedurally defaulted [him] when [we] determined that the Record of Proceedings was incomplete and that this barred a review of the claim.” *Appellant’s Petition for Rehearing* at 2. For clarification, we did not “procedurally default” Glasscock nor bar review of his claim. Rather, we concluded “Glasscock [] provided an insufficient basis upon which to review his claimed error . . . [and] affirmed.” *Glasscock v. Grant County Sheriff*, Cause No. 27A02-0506-CV-523 at 5.

Glasscock's motion for rehearing is denied.¹

MAY, J., and CRONE, J., concur.

¹ We also deny Glasscock's motion for leave to file a supplemental appendix.